

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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In Re: AUTOMOTIVE PARTS  
ANTITRUST LITIGATION

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: 12-md-02311  
: Honorable Marianne O. Battani  
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In Re: Instrument Panel Clusters Cases

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THIS DOCUMENT RELATES TO:

All Automobile Dealer Actions  
All End-Payor Actions

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: 2:12-cv-00202-MOB-MKM  
: 2:12-cv-00203-MOB-MKM  
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**RESPONSE OF NON-SETTLING DEFENDANTS TO MOTIONS BY DEALERSHIP  
PLAINTIFFS [ECF No. 72] AND END-PAYOR PLAINTIFFS [ECF No. 69] FOR  
PRELIMINARY APPROVAL OF SETTLEMENT WITH THE NIPPON SEIKI  
DEFENDANTS AND PROVISIONAL CERTIFICATION OF A SETTLEMENT CLASS**

The Yazaki and DENSO Defendants (collectively, the “Non-Settling Defendants”) submit the following statement in response to the motions by the Auto Dealer Plaintiffs and the End-Payor Plaintiffs (collectively, “Plaintiffs”) for Preliminary Approval of settlements reached with the Nippon Seiki Defendants relating to Instrument Panel Clusters. As part of the settlement process, Plaintiffs ask the Court to certify a “Settlement Class” that is consistent with the purported class on whose behalf Plaintiffs have brought claims against all of the Defendants.

The Non-Settling Defendants expect to contest a motion for class certification once that motion becomes ripe for consideration on a fully formed record. The Non-Settling Defendants expect to demonstrate that legal and factual issues differ across the range of purported class members and that the predominance of individual issues will render trial on a class basis unmanageable, such that the class will not meet the certification requirements of Rule 23 of the Federal Rules of Civil Procedure.

Plaintiffs’ Motions, and more importantly, their Proposed Orders, recognize that the question of class certification of a litigation class will be hotly contested. To avoid a premature dispute and allow their purported settlement class to proceed, they have included the following language in their Proposed Orders:

The Court’s provisional certification of the Settlement Class as provided herein is without prejudice to, or waiver of the rights of any Defendants to contest certification of any other class proposed in these coordinated actions. The Court’s findings in this Order shall have no effect on the Court’s ruling on any motion to certify any class in these actions or on the Court’s rulings concerning any Defendant’s motion; and no party may cite or refer to the Court’s approval of the Settlement Class as persuasive or binding authority with respect to any motion to certify any such class or any Defendant’s motion.

(Proposed Order Granting Dealership Plaintiffs’ Motion for Preliminary Approval of Settlement with the Nippon Seiki Defendants and Provisional Certification of a Settlement Class at ¶ 11, No. 12-cv-00202, ECF No. 72-5; Proposed Order Granting End-Payor Plaintiffs’ Motion for

Preliminary Approval of Settlement with the Nippon Seiki Defendants and Provisional Certification of a Settlement Class at ¶ 11, No. 12-cv-00203, ECF No. 69.) The Non-Settling Defendants specifically endorse this provision and request that it be included in any resulting Order if the Court should decide to preliminarily approve the proposed settlements.

If the Court were to decide not to include such language, Non-Settling Defendants hereby move for the additional and necessary time needed to take discovery and develop the factual record necessary to present a fully briefed motion on class certification to the Court.

Dated: January 7, 2014

JONES DAY

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Dated: January 7, 2014

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 7, 2014, I caused the foregoing **RESPONSE OF NON-SETTLING DEFENDANTS TO MOTIONS BY DEALERSHIP PLAINTIFFS [ECF No. 72] AND END-PAYOR PLAINTIFFS [ECF No. 69] FOR PRELIMINARY APPROVAL OF SETTLEMENT WITH THE NIPPON SEIKI DEFENDANTS AND PROVISIONAL CERTIFICATION OF A SETTLEMENT CLASS** to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ John M. Majoras

John M. Majoras